

Appendix E

Negotiations

There are many times when platoon leaders and platoon sergeants at roadblocks, and company and battalion commanders working in cordon and search operations, must negotiate and communicate with potential belligerents. Leaders need to know that they may be placed in a position that requires them to mediate or negotiate on the battlefield.

Brigadier General L. Magruder, III, USA CG, Joint Readiness Training Center

Military leaders can find themselves in the role of a negotiator, mediator, or even arbitrator during operations. Each role requires different attributes; however, this section focuses on those common attributes and techniques necessary for negotiations. Leaders at all levels may conduct negotiations in stability operations and support operations. For example, Army leaders may negotiate for rights of passage; mediate between hostile factions; or barter for use of facilities, buildings, roads, and services. For more information on negotiations, see Chapter 4 of the *JTF Commander's Handbook for Peace Operations*.

CONSIDERATIONS

E-1. Leaders may use the following considerations as a guide to prepare for negotiations; however, there will be a negotiation on the conduct of negotiations. This process must be addressed in your initial planning sessions. No simple answers exist to negotiations and the broader context of conflict management and resolution. The process is complex. What works in one situation may not work in the next. This manual suggests discussing four basic considerations: negotiations do not exist in a vacuum, negotiation is an exercise in persuasion, study alternatives to negotiating an agreement, and be attuned to cultural differences.

CONTENTS	
Considerations E-0 Negotiations Do Not Exist in a Vacuum E-1 Negotiation is an Exercise in Persuasion E-1 Study Alternatives to Negotiating an Agreement..... E-1 Be Attuned to Cultural Differences E-1 Procedures..... E-1 Establish Communications E-2 Identify Common Ground on Which to Build Dialogue E-2	Consider Cultural Implications E-2 Set Clear Goals and Objectives E-3 Develop a Plan and Diagram the Results of Analysis..... E-3 Determine Composition of Negotiating Team and Decision Making Mechanisms E-3 Establish the Venue E-4 Implementation E-5 Training..... E-5

NEGOTIATIONS DO NOT EXIST IN A VACUUM

E-2. Leaders as negotiators must understand the broader issues of conflict and their changing nature. These issues include—

- Maintaining dialogue with all parties, groups, and organizations, to include the government, if one exists, and the opposition, various factions, or militias.
- Preventing any incident to destroy dialogue (even if force is applied); creating an atmosphere of hostility will not lead to a resolution.

NEGOTIATION IS AN EXERCISE IN PERSUASION

E-3. Negotiation is a way to advance interests by jointly decided action. Leaders as negotiators need the cooperation of the other parties. Negotiators must consider them partners in solving the problems.

E-4. Negotiators must think carefully about the full range of interests and prepare thoroughly for the full range of interests of the other parties. They must consider the underlying interests behind a position that a party has taken on a particular issue. People negotiate for different reasons, such as—

- Tasks (the lease of a compound).
- Relationships (to get to know the other party and find out more information about that person).
- Status (legitimacy as participants as others perceive them).

STUDY ALTERNATIVES TO NEGOTIATING AN AGREEMENT

E-5. Leaders as negotiators must consider alternative approaches to determine the most persuasive method to educate others. Negotiators want others to see a negotiated settlement as being in their best interests.

BE ATTUNED TO CULTURAL DIFFERENCES

E-6. Actions can have different connotations to members of other cultures. Culture shapes how people reason, what they accept as fact, and what principles they apply to decision making. Nonverbal behavior such as the symbolic rituals or protocols of the arrangement for a meeting also is important.

E-7. Negotiations can be conducted at several levels: negotiations among United States (US) agencies and departments; between multinational partners; between the military force and United Nations (UN) agencies; and between the military and local leaders. In the joint, combined, and inter-agency environment, negotiations can be complex. Nonetheless, all negotiations require tact, diplomacy, honesty, patience, fairness, effective communications, cross-cultural sensitivity, and careful planning.

PROCEDURES

E-8. This manual suggests that successful negotiations should follow eight steps. Negotiators should establish communications, identify common ground, consider cultural implications, set goals, develop a plan, determine the negotiating team's composition, establish the venue, and then implement the plan.

ESTABLISH COMMUNICATIONS

E-9. Negotiators must establish an effective means of communicating with the political, faction leader, or both. They must not assume that a certain leader or element is opposed to their efforts without careful investigation. Instead, they must ensure that facts are correct before forming any opinions.

IDENTIFY COMMON GROUND ON WHICH TO BUILD DIALOGUE

E-10. Negotiators will spend considerable time determining the exact problem. At this stage, they must focus on the problem rather than the solution. Negotiators may consider certain guidelines:

- Have no expectations. Do not expect a party to negotiate to achieve an agreement if that party perceives more benefits from an alternative to negotiations than to any outcome negotiations could produce. The negotiator needs to persuade the party that negotiations will produce the most benefits.
- Focus on underlying interests. Differences in the relative value of interests, forecasts of future events, aversion to risk, and time preferences may offer opportunities to develop options for mutual gain.
- Learn from the parties. Seek ways through collaboration to find possible alternatives to their present positions.
- When necessary, assume the role of conveyer, facilitator, or mediator. Be patient.

CONSIDER CULTURAL IMPLICATIONS

E-11. There are organizational cultures within the various agencies and departments of the US government as well as the international organizations that shape the context of negotiations. Equally important are national cultural differences. The negotiating team should include experienced interpreters. Their understanding of the cultural context of terms used is invaluable. Negotiators need more than literal translators.

E-12. Negotiation is only one means of resolving conflict. Negotiators should consider indigenous conflict resolution techniques in selecting their approach. Adapting their techniques with indigenous ones may improve the prospects for a settlement. Some implications to consider include—

- Differences. Differences exist in styles of reasoning, the manner in which an individual who carries authority negotiates, and behavior in such dimensions as protocol and time. For example, American culture accepts that one may offer concessions early in a negotiation to reach an agreement. That approach may not have the same connotation in other cultures. Moreover, the concept of compromise, which has a positive connotation for Americans, may have a negative one in other cultures.
- Each side's approach. Americans tend to be direct problem solvers with a give-and-take approach; however, some cultures are indirect, most concerned with the long-term relationships and historical context. Issues of symbolism, status, and face may be important considerations. For example, answers may not be direct and the negotiator will have to look for indirect formulations and nonverbal gestures to understand

what the other party is communicating. In turn, he will need to select his words and gestures with care to avoid communicating unintended meanings.

- Alternate locations. Other cultures may prefer alternate locations for negotiations. In 1993 in Kismayo, Somalia, several clans met to seek political reconciliation in a traditional setting under a tree instead of following the American custom of a meeting at a table.

E-13. If negotiators cannot reach agreement, they must keep the dialogue going. At a minimum, they must seek agreement on when the parties will meet again. They should look for something to keep the momentum alive, going back to earlier discussions on common ground, and seek to keep trust alive in the process.

E-14. From the negotiation team, negotiators often consider selecting one person who understands conflict dynamics and cross-cultural issues to look at the process of the negotiations and give advice. This individual can watch for body language and other indicators of how the process is working. In turn, this person may be able to coach more effective techniques to the negotiators.

SET CLEAR GOALS AND OBJECTIVES

E-15. Negotiators must know what they are trying to accomplish as well as the limits of their authority. They examine how to approach the issues. They settle the easy issues first, often settling issue-by-issue in a predetermined order. Successful negotiators look to create links or to separate unrelated issues. For example, security issues might be separated from logistic issues. They must consider having details worked out at later sessions with the right people and understand that these sessions will also be negotiations.

DEVELOP A PLAN AND DIAGRAM THE RESULTS OF ANALYSIS

E-16. Negotiators should develop a plan and diagram the results of their analyses. Useful questions in this analysis are—

- What are the main issues?
- Who are the relevant parties? First order? Second? Third?
- What are these parties' publicly stated positions? Privately stated positions?
- What are the underlying interests behind these positions?
- What are the important needs of each party?
- What are their concerns? Fears?

DETERMINE COMPOSITION OF NEGOTIATING TEAM AND DECISION MAKING MECHANISMS

E-17. In some cases, the various, interested parties can form a committee or council with appropriate representation. Negotiators should consider several points:

- Identify the right participants in advance. For example, will it include ambassador and joint task force commander-level, mid-level, or working-level personnel?

- Consider the culture when deciding what constitutes the appropriate construct for a meeting. For example, what role do women play in the society? How is *status* defined in the culture?
- Select the composition of the committee or council carefully. It may include legal advisors, political representatives (such as Department of State, UN agencies, or others), military representatives (operations, logistics, civil affairs), and other civilian representatives and non-governmental organizations.
- Ensure that members possess the status and ability to deal with the leadership representing all involved parties.
- For those members seen as part of the military force, ensure that they understand the issues and speak with one voice. This will require a prior negotiation within the negotiator's own delegation. They must understand policy and direction from his higher authority.
- Have patience. Negotiations are time-consuming and can be frustrating. Ensure that the people negotiating can effectively recommend that their superiors ratify an agreement reached. Are all the decision makers who will determine whether the agreement reached is implemented represented in the committee or council?
- Develop a supportive climate. A negotiator creates a supportive climate for the decision makers to complete an agreement. He may find it useful to talk to those who are not decision makers but with those from whom the decision makers will need support. In this way, they may assist the negotiator in helping their decision makers reach agreement.
- Determine the legitimate community leaders. In situations involving severe conflict or state collapse, it may be difficult to determine the legitimate community leaders with whom any lasting agreement must be made.
- Ensure that negotiators understand the scope and latitude of their authority. If feasible, delegate authority to them for negotiation.

ESTABLISH THE VENUE

E-18. Negotiators should consider how meetings are called. Is neutral ground available that is acceptable to all sides? Should US representatives go to the factional leader's location or will this improperly affect the negotiations? Consider details such as the seating arrangements or specific settings traditionally used in the culture. Other concerns for the selection of a negotiating venue may include—

- Security, accessibility, and availability of communications facilities and comfort for all involved parties.
- Sharing relevant information to the negotiations with all parties. The timing of this sharing may vary depending on the circumstances.
- Holding all information generated from the negotiations in confidence until officially released, sharing of information notwithstanding. That decision will depend on the nature of the talks. For example, if publicity may help create support and empower negotiators to agree, release of information may be constructive. Negotiators must be flexible.

IMPLEMENTATION

E-19. At the conclusion of negotiations, negotiators should prepare a report to ensure that they record all accomplishments, agreements, and disagreements for future use. They should also consider giving one person the task of reporting and presenting what has taken place to all participants. This can build trust in the process if each party can view it as an honest effort to understand the other side's position.

TRAINING

E-20. Negotiation and mediation training is essential for military officers in stability operations and many support operations. They need a conceptual foundation in conflict management and resolution. Also necessary are conceptual skills to help them analyze and select approaches to deal with conflicts. Although many leaders develop this skill during the conduct of operations, a predeployment training program is the preferred approach. A course lasting three to five days introduces the basic concepts and then applies the concepts in a series of exercises.

E-21. Ideally, organizations that may participate in peace operations should include education in negotiations as part of the leader professional development. Selected leaders who would benefit from such training include staff officers down to battalion level and company commanders. Such courses are offered at—

- The US Army Peacekeeping Institute in Carlisle Barracks, Pennsylvania. It offers a three and four-day exportable negotiations course.
- The Foreign Service Institute in Arlington, Virginia. It offers a one-week negotiation art and skills course several times a year.

E-22. Other institutions are sources of expertise in negotiation and conflict resolution. These institutions offer training in various formats:

- The US Institute of Peace in Washington, DC, is one of the foremost institutions for its expertise and practical work with governmental and nongovernmental organizations.
- The American Arbitration Association in Washington, DC, provides extensive practical experience to negotiators, mediators, and trainers for governmental agencies and international organizations.
- John F. Kennedy School of Government at Harvard University in Cambridge, Massachusetts, annually offers a one-week course entitled "Strategic Public-Sector Negotiation."
- The Conflict Management Group in Cambridge, Massachusetts, is a nonprofit organization that tailors programs for organizations and has extensive international experience.